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13  
 14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

17 E.M., a minor, by and through his parents, E.M.  
 & E.M.,

18 Plaintiff,

19 vs.

20 PAJARO VALLEY UNIFIED SCHOOL  
 21 DISTRICT,

22 Defendants.

CASE NO. C 06-04694 JF

**STIPULATED REQUEST TO  
 SUPPLEMENT THE ADMINISTRATIVE  
 RECORD**

23  
 24 Pursuant to United States District Court Northern District Civil Local Rules 7-12, plaintiff  
 25 E.M. ("Plaintiff") and defendant PAJARO VALLEY UNIFIED SCHOOL DISTRICT ("District")  
 26 (hereafter collectively referred to as "the parties") submit this stipulation to request an order  
 27 permitting the parties to supplement the administrative record in this matter as follows:

1           1.       WHEREAS, this case is an appeal, pursuant to title 20 United States Code section  
2 1415, subdivision (i)(2)(A), from an administrative law judge's decision in a special education  
3 “due process” matter;

4           2.       WHEREAS, the District obtained a copy of the administrative record from the  
5 underlying proceedings from the Office of Administrative Hearings (“OAH”) and lodged same  
6 with the Court on July 20, 2008;

7           3.       WHEREAS, one of the exhibits contained in the administrative record,  
8 Respondent’s Exhibit 3, is incomplete and appears to have been cut off by OAH when it was  
9 copied [*see*, Administrative Record (“AR”) at pp. 2188-2191];

10          4.       WHEREAS, the full seven (7) page exhibit was admitted by the administrative law  
11 judge during the hearing [*see*, AR 1197:1-14];

12          5.       WHEREAS, parties may supplement an administrative record to repair “gaps in the  
13 administrative transcript owing to mechanical failure.” *Ojai Unified Sch. Dist. v. Jackson*, 4 F.3d  
14 1467, 1473 (9th Cir. 1993), *quoting*, *Town of Burlington v. Dept. of Educ. for the Commonwealth*  
15 *of Mass. (“Burlington”)*, 736 F.2d 773, 790-791 (1st Cir. 1984), *aff’d*, 471 U.S. 359, 109 S.Ct.  
16 1996, 85 L.Ed.2d 285 (1985);

17          6.       WHEREAS, a redacted version of the Exhibit to be lodged is attached hereto as  
18 Exhibit “A” (Local Rule 3-17(a)(2));

19           IT IS HEREBY STIPULATED by and between the parties hereto, through their respective  
20 attorneys of record, that Defendant may lodge a new Exhibit 3, to be sequentially numbered to the  
21 administrative record as pages 2385-2392.

23 DATED: July 10, 2008

LEIGH LAW GROUP

25 By: /s/ Sarah J. Fairchild

Sarah J. Fairchild

26 Attorneys for Plaintiff E.M. by and through E.M.  
27 and E.M.

1 DATED: July 10, 2008

FAGEN FRIEDMAN & FULFROST, LLP

2  
3 By: /s/ Kimberly A. Smith

4 Kimberly A. Smith

5 Attorneys for Defendants PAJARO VALLEY  
6 UNIFIED SCHOOL DISTRICT

7 I, Kimberly A. Smith, am the ECF User whose ID and password are being used to file this  
8 STIPULATED REQUEST TO SUPPLEMENT THE ADMINISTRATIVE RECORD. In  
9 compliance with General Order 45, X.B., I hereby attest that Mandy G. Leigh has concurred in  
10 this filing.

11 DATED: July 10, 2008

FAGEN FRIEDMAN & FULFROST, LLP

12  
13 By: /s/ Kimberly A. Smith

14 Kimberly A. Smith

15 Attorneys for Defendant, PAJARO VALLEY  
16 UNIFIED SCHOOL DISTRICT

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\*\*E-filed 7/17/08\*\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

E.M. a minor, by and through his parents E.M.  
and E.M.,

Plaintiff,

vs.

PAJARO VALLEY UNIFIED SCHOOL  
DISTRICT, OFFICE OF ADMINISTRATIVE  
HEARINGS, AND CALIFORNIA  
DEPARTMENT OF EDUCATION,

Defendants.

CASE NO. C -06-04694 JF

**[PROPOSED] ORDER GRANTING  
REQUEST TO SUPPLEMENT THE  
ADMINISTRATIVE RECORD**


[Civil Local Rules 7-12]

Pursuant to the Stipulated Request to Supplement the Administrative Record submitted by  
the parties to this action,

IT IS HEREBY ORDERED that Defendant may lodge Exhibit 3 as Administrative Record  
pages 2385 through 2393.

IT IS SO ORDERED.

Dated: 7/17/08

  
The Honorable Jeremy Fogel  
Judge of the United States District Court for  
the Northern District of California

C 06-04694 JF

[PROPOSED] ORDER